

**In the Matter of**  
**MKD International, Inc.**

**Case No. 95-14**

The Office of Antiboycott Compliance, Bureau of Export Administration, U.S. Department of Commerce ("Department"), having determined to initiate an administrative proceeding pursuant to Section 11(c) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 and Supp. 1998)) (the "Act")<sup>1</sup> and the Export Administration Regulations (currently codified at 15 C.F.R Parts 730-774 (1998))(the "Regulations"), against MKD International, Inc. ("MKD"), a domestic concern resident in the State of Tennessee, based on allegations set forth in the Proposed Charging Letter, dated August 26, 1998, attached hereto and incorporated herein by this reference;

<sup>1</sup>The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)) and August 13, 1998 (63 Fed. Reg. 44121, August 17, 1998), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1998)).

The Department and MKD having entered into a Settlement Agreement, incorporated herein by this reference, whereby the parties have agreed to settle this matter; and

I, the Assistant Secretary for Export Enforcement, having approved the terms of the Settlement Agreement:

IT IS ORDERED THAT,

FIRST, a civil penalty of \$10,000 is assessed against MKD;


SECOND, MKD shall pay to the Department the sum of \$4000 within thirty days of the date of this Order, as specified in the attached instructions. Payment of the remaining \$6,000 will be suspended for one year from the date this Order is entered and will thereafter be waived, provided that, during the period of suspension MKD does not violate the Act, the Regulations, the Settlement Agreement or this Order, when entered.

THIRD, pursuant to the Debt Collections Act of 1982, as amended (31 U.S.C.A. §§ 3701-3720E (1983 and Supp. 1998)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, MKD will be assessed, in addition to interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

FOURTH, as authorized by Section 11(d) of the Act, the timely payment of the sum of \$4000 is hereby made a condition to the granting, restoration or continuing validity of any export license, permission, or privilege granted, or to be granted, to MKD. Accordingly, if MKD should fail to pay the sum of \$4000 in the manner prescribed by this Order, I will enter an Order under the authority of Section 11(d) of the Act denying all of MKD's export privileges for a period of one year from the date of the entry of this Order; and

FIFTH, the Proposed Charging Letter, the Settlement Agreement and this Order shall be made available to the public, and a copy of this Order shall be served upon MKD.

This Order is effective immediately.

  
F. Amanda DeBusk  
Assistant Secretary for Export Enforcement  
Bureau of Export Administration

Entered this 22<sup>nd</sup> day of October, 1998

**INSTRUCTIONS FOR PAYMENT OF SETTLEMENT AMOUNT**

1. The check should be made payable to:

**U.S. DEPARTMENT OF COMMERCE**

2. The check should be mailed to:

**U.S. Department of Commerce  
Bureau of Export Administration  
Room 6622  
14th & Constitution Avenue, N.W.  
Washington, D.C. 20230**

**Attention: Miriam Cohen**

## NOTICE

The Order to which this Notice is attached describes the reasons for the assessment of the civil monetary penalty and the rights, if any, that MKD may have to seek review, both within the U.S. Department of Commerce and the courts. It also specifies the amount owed and the date by which payment of the civil penalty is due and payable.

Under the Debt Collection Act of 1982, as amended (31 U.S.C.A. §§ 3701-3720E (1983 and Supp. 1998)) and the Federal Claims Collection Standards (4 C.F.R. Parts 101-105 (1997)), interest accrues on any and all civil monetary penalties owed and unpaid under the Order, from the date of the Order until paid in full. The rate of interest assessed MKD is the rate of the current value of funds to the U.S. Treasury on the date that the Order was entered. However, interest is waived on any portion paid within 30 days of the date of the Order. See 31 U.S.C.A. § 3717 and 4 C.F.R. § 102.13.

The civil monetary penalty will be delinquent if not paid by the due date specified in the Order. If the penalty becomes delinquent, interest will continue to accrue on the balance remaining due and unpaid, and MKD will also be assessed both an administrative charge to cover the cost of processing and handling the delinquent claim and a penalty charge of six percent per year. However, although the penalty charge will be computed from the date that the civil penalty becomes delinquent, it will be assessed only on sums due and unpaid for over 90 days after that date. See 31 U.S.C.A. § 3717 and 4 C.F.R. § 102.13.

The foregoing constitutes the initial written notice and demand to MKD in accordance with Section 102.2(b) of the Federal Claims Collection Standards (4 C.F.R. § 102.2(b)).

UNITED STATES OF AMERICA  
DEPARTMENT OF COMMERCE

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In the Matter of

MKD International, Inc.  
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) Case No. 95-14  
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**SETTLEMENT AGREEMENT**

This agreement is made by and between MKD International, Inc. ("MKD"), a domestic concern resident in the State of Tennessee, and the United States Department of Commerce ("Department"), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1998)) (the "Regulations"), issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 and Supp. 1998)) (the "Act").<sup>1</sup>

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<sup>1</sup>The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)) and August 13, 1998 (63 Fed. Reg. 44121, August 17, 1998), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1998)).

**WHEREAS**, the office of Antiboycott Compliance, Bureau of Export Administration, U.S. Department of Commerce, has notified MKD of its intention to initiate an administrative proceeding against MKD pursuant to Section 11(c) of the Act by issuing the Proposed Charging Letter dated August 26, 1998, a copy of which is attached hereto and incorporated herein by this reference; and

**WHEREAS**, MKD has reviewed the Proposed Charging Letter and is aware of the allegations against it and the administrative sanctions which could be imposed against it if the allegations are found to be true; MKD fully understands the terms of this Settlement Agreement, and enters into the Settlement Agreement voluntarily and with full knowledge of its rights; and MKD states that no promises or representations have been made to it other than the agreements and considerations herein expressed; and

**WHEREAS**, MKD neither admits nor denies the truth of the allegations, but wishes to settle and dispose of the allegations made in the Proposed Charging Letter by entering into this Settlement Agreement; and

**WHEREAS**, MKD agrees to be bound by the appropriate Order ("Order") when entered;

**NOW, THEREFORE**, MKD and the Department agree as follows:

1. Under the Act and the Regulations, the Department has jurisdiction over MKD with respect to the matters alleged in the Proposed Charging Letter.

2. The Department will impose a civil penalty on MKD in the amount of \$10,000.

MKD will pay to the Department, within 30 days of the date the Order is entered, the sum of \$4,000. Payment of the remaining \$6,000 will be suspended for one year from the date the Order is entered and will thereafter be waived, provided that, during the period of suspension MKD does not violate the Act, the Regulations, this Settlement Agreement, or the Order, when entered.

3. As authorized by Section 11(d) of the Act, timely payment of the amount agreed to in paragraph 2 is hereby made a condition of the granting, restoration, or continuing validity of any export license, permission, or privilege granted, or to be granted, to MKD. Failure to make payment of this amount shall result in the denial of all of MKD's export privileges for a period of one year from the date of entry of the Order.

4. Subject to the approval of this Settlement Agreement pursuant to paragraph 9 hereof, MKD hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violation of this Settlement Agreement or the Order, when entered) including, without limitation, any right to:

- A. An administrative hearing regarding the allegations in the Proposed Charging Letter;
- B. Request a refund of the funds paid by MKD pursuant to this Settlement Agreement and the Order, when entered;




**C. Seek judicial review or otherwise contest the validity of this Settlement Agreement or the Order, when entered.**

- 5. The Department, upon entry of the Order, will not subsequently initiate any administrative or judicial proceeding, or make a referral to the Department of Justice for criminal proceedings against MKD, with respect to any violation of Section 8 of the Act or Part 769 or redesignated Part 760 of the Regulations arising out of the transactions set forth in the Proposed Charging Letter or any other transaction that was disclosed to or reviewed by the Department in the course of its investigation.**
- 6. MKD understands that the Department will disclose publicly the Proposed Charging Letter, this Settlement Agreement, and the Order, when entered.**
- 7. This Settlement Agreement is for settlement purposes only, and does not constitute an admission by MKD that it has violated the Regulations or an admission of the truth of any allegation contained in the Proposed Charging Letter or referred to in this Settlement Agreement. Therefore, if this Settlement Agreement is not accepted and the Order not entered by the Assistant Secretary for Export Enforcement, the Department may not use this Settlement Agreement against MKD in any administrative or judicial proceeding.**

8. No agreement, understanding, representation or interpretation not contained in this Settlement Agreement may be used to vary or otherwise affect the terms of this Settlement Agreement or the Order, when entered, nor shall this Settlement Agreement bind, constrain or otherwise limit any action by any other agency or department of the United States Government with respect to the facts and circumstances herein addressed.

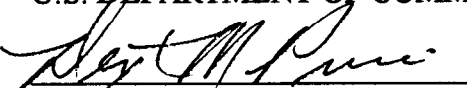
9. This Settlement Agreement will become binding on the Department only when approved by the Assistant Secretary for Export Enforcement by entering the Order.

MKD INTERNATIONAL, INC

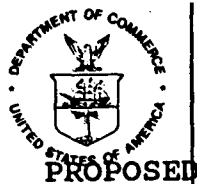
  
Kamel Daouk  
Vice President

DATE: 9.30.98

U.S. DEPARTMENT OF COMMERCE

  
Dexter M. Price  
Director  
Office of Antiboycott Compliance

DATE: 10/9/98



UNITED STATES DEPARTMENT OF COMMERCE  
Bureau of Export Administration  
Washington, D.C. 20230  
**PROPOSED CHARGING LETTER**

August 26, 1998

MKD International, Inc.  
P.O. Box 150709  
Nashville, TN 37215

Attention: Mr. Zaki Douk  
President

Case No. 95-14

Gentlemen:

We have reason to believe and charge that you, MKD International, Inc., have committed two violations of the Export Administration Regulations, currently codified at 15 C.F.R. Parts 730-744 (1998), (the "Regulations")<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1998)) (the "Act").<sup>2</sup>

We charge that you committed one violation of Section 769.2(a) of the former Regulations in that, with intent to comply with, further, or support an unsanctioned foreign boycott, you, on one occasion, required another person to refuse to do business with persons known or believed to be restricted from having any business relationship with or in a boycotting country, pursuant to a requirement of or a request from, or on behalf of, a boycotting country. We also charge that you committed one violation of Section 769.2(d) of the former Regulations, in that,

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<sup>1</sup> The alleged violations occurred in 1993. The Regulations governing the violations at issue are found in the 1993 version of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1993)). Those Regulations define the violations that the Bureau of Export Administration alleges occurred and are referred to hereinafter as the former Regulations. Since that time, the Regulations have been reorganized and restructured; the restructured Regulations established the procedures that apply to the matters in this letter.

<sup>2</sup> The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R. 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R. 1995, Comp. 501 (1996)), August 14, 1996, (3 C.F.R. 1996, Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 1998)) and August 13, 1998 (63 Fed. Reg. 44121, August 17, 1998), continued the Regulations in effect under the International Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1998)).



with intent to comply with, further or support an unsanctioned foreign boycott, you furnished, through an agent, one item of information about another person's business relationships with persons known or believed to be restricted from having any business relationships with or in a boycotting country.

We allege that:

1. You are a domestic concern incorporated in the State of Delaware and a resident in the State of Tennessee and, as such, are a United States person as defined in Section 760.1(b) of the Regulations.
2. During the period March 1993 through April 1993, you engaged in transactions involving the sale of United States-origin goods to Lebanon, activities in the interstate or foreign commerce of the United States as defined in Section 769.1(d) of the former Regulations.
3. In connection with the transactions referred to in paragraph 2 above, on or about March 11, 1993, you sent shipping instructions to your supplier in the U.S. which contained the following instructions for goods to be shipped to a consignee in Beirut:

'On a separate certificate signed by the shipping company, please mention the following:

"We undertake not to load goods on...  
ship blacklisted by the Israeli Boycott  
office..."

4. In so doing, you required another person to refuse to do business with persons known or believed to be restricted from having any business relationship with or in a boycotting country, pursuant to a requirement of or request from, or on behalf of, a boycotting country, an activity prohibited by Section 769.2(a) of the former Regulations, and not excepted.
5. On or about May 29, 1993, your shipping agent in the U.S., in response to the request described in paragraph 3 above, prepared and provided to your U.S. freight forwarder a document containing the following statement:

"WE UNDERTAKE NOT TO LOAD GOODS...ON  
SHIPS BLACKLISTED BY THE ISRAELI BOYCOTT  
OFFICE..."

6. You, through your agent acting on your instructions, by making the statement quoted in paragraph 5 above, furnished information about another person's business relationships with or in a boycotting country, an activity prohibited by Section 769.2(d) of the former Regulations, and not excepted.

Accordingly, administrative proceedings are instituted against you pursuant to Part 766 of the Regulations for the purpose of obtaining an Order imposing administrative sanctions.<sup>3</sup>

You are entitled to a hearing on the record as provided in Section 766.6 of the Regulations. If you wish to have a hearing on the record, you must file a written demand for it with your answer. You are entitled to be represented by counsel, and under Section 766.18 of the Regulations, to seek a settlement agreement.

If you fail to answer the allegations contained in this letter within thirty (30) days after service as provided in Section 766.6, such failure will be treated as a default under Section 766.7.

As provided in Section 766.3, I am referring this matter to the Administrative Law Judge. Pursuant to an Interagency Agreement between BXA and the U.S. Coast Guard, the U.S. Coast Guard is providing administrative law judge services, to the extent that such services are required under the Regulations, in connection with the matters set forth in this letter. Therefore, in accordance with the instructions in Section 766.5(a) of the Regulations, your answer should be filed with:

U.S. Coast Guard ALJ Docketing  
40 South Gay Street  
Baltimore, Maryland 21202-4022  
Attention: Administrative Law Judge

Also, in accordance with the instructions in Section 766.5(b) of

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<sup>3</sup> Administrative sanctions may include any or all of the following:

- a. The maximum civil penalty of \$10,000 per violation (see § 764.3(a)(1) of the Regulations);
- b. Denial of export privileges (see § 764.3(a)(2) of the Regulations); and/or
- c. Exclusion from practice (see § 764.3(a)(3) of the Regulations).

the Regulations, a copy of your answer should be served on the Bureau of Export Administration at:

Office of the Chief Counsel for Export Administration  
U.S. Department of Commerce  
Room H-3839  
14th Street & Constitution Avenue, N.W.  
Washington, D.C. 20230

Sincerely,

Dexter M. Price  
Director  
Office of Antiboycott Compliance